

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2507

Introduced by Assembly Member Bocanegra

February 21, 2014

An act to amend Section 6254 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as amended, Bocanegra. Public Records Act: exemptions: pending litigation.

Existing law, the California Public Records Act (CPRA), requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, upon the payment of fees to cover costs.

Existing law exempts from the CPRA's disclosure requirements any records pertaining to pending litigation to which the public agency is a party, until the pending litigation or claim has been finally adjudicated or otherwise settled.

This bill would provide that ~~public agency~~ *outside* attorney billing records, when they are prepared in connection with ~~pending litigation~~, *a pending civil action in which a public agency is a defendant*, are exempt from the CPRA's disclosure provisions during the pendency of the litigation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the

interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 ~~(1)~~

4 (a) Interpretation of the California Public Records Act is a matter
5 of great significance to public entities across the state. Public
6 entities and public employees necessarily participate in litigation
7 on an ongoing basis as part of conducting the public's business. It
8 is therefore vital that clear guidelines be established with respect
9 to the application of the act as it relates to pending litigation.

10 ~~(2)~~

11 (b) Public entities must often retain outside counsel to prosecute
12 and defend actions in the public's interest. Public entities
13 throughout the state have a strong interest in having clear guidelines
14 established concerning records pertaining to pending litigation
15 generated by outside counsel.

16 ~~(3)~~

17 (c) Without clarification, every public entity in the state is
18 subject to ongoing requests for attorneys' invoices, billing
19 statements, and cost amounts in pending cases that result in
20 increased administrative costs and compromise the defense and
21 prosecution of public actions.

22 ~~(4)~~

23 (d) The right of the public to access records pertaining to
24 pending litigation will not be affected, as any such records,
25 notwithstanding any other provision of law, are not exempt from
26 disclosure under law upon final adjudication or settlement.

27 ~~(5)~~

28 (e) It is necessary for a state and local agency to withhold certain
29 records from public disclosure to permit that agency to properly
30 perform their governmental functions, including their ability to
31 prosecute and defend themselves in public actions.

32 ~~(6)~~

1 (f) The pending litigation exemption is designed to prevent a
2 litigant opposing a governmental entity from using the act to secure
3 earlier or greater access to records than would be then would be
4 otherwise available under the rules of civil discovery.

5 ~~(7)~~

6 (g) There is a public interest in the disclosure of the resources
7 and funds expended in litigation involving a public entity. There
8 is, however, no public interest to be served in disclosing that
9 information, particularly attorneys' invoices, billing statements,
10 and cost amounts while litigation is pending against the public
11 entity.

12 ~~(8)~~

13 (h) Disclosing such information to a public entity's adversary
14 in litigation will have the negative impact of also disclosing how
15 the public entity is utilizing its resources on a particular case while
16 it is pending, and thus revealing an entity's case valuation and
17 strategy. This will unbalance the scales of justice and prejudice
18 the public entity in settlement negotiations and trial.

19 ~~(9)~~

20 (i) Information about attorneys' invoices, billing statements,
21 and cost amounts in the course of ongoing pending litigation
22 affords litigants opposing a public entity a tactical insight to exploit
23 for purposes of accelerating litigation at a particular point,
24 prolonging litigation, or timing a settlement demand and puts the
25 public entity at a disadvantage that the litigation exemption was
26 designed to prevent.

27 SEC. 2. Section 6254 of the Government Code is amended to
28 read:

29 6254. Except as provided in Sections 6254.7 and 6254.13,
30 nothing in this chapter shall be construed to require disclosure of
31 records that are any of the following:

32 (a) Preliminary drafts, notes, or interagency or intra-agency
33 memoranda that are not retained by the public agency in the
34 ordinary course of business, if the public interest in withholding
35 those records clearly outweighs the public interest in disclosure.

36 (b) Records pertaining to pending litigation to which the public
37 agency is a ~~party~~, *defendant in a civil action*, including *outside*
38 attorneys' invoices, billing statements, and requests for payment,
39 or to claims made pursuant to Division 3.6 (commencing with

1 Section 810), until the pending litigation or claim has been finally
2 adjudicated or otherwise settled.

3 (c) Personnel, medical, or similar files, the disclosure of which
4 would constitute an unwarranted invasion of personal privacy.

5 (d) Contained in or related to any of the following:

6 (1) Applications filed with any state agency responsible for the
7 regulation or supervision of the issuance of securities or of financial
8 institutions, including, but not limited to, banks, savings and loan
9 associations, industrial loan companies, credit unions, and
10 insurance companies.

11 (2) Examination, operating, or condition reports prepared by,
12 on behalf of, or for the use of, any state agency referred to in
13 paragraph (1).

14 (3) Preliminary drafts, notes, or interagency or intra-agency
15 communications prepared by, on behalf of, or for the use of, any
16 state agency referred to in paragraph (1).

17 (4) Information received in confidence by any state agency
18 referred to in paragraph (1).

19 (e) Geological and geophysical data, plant production data, and
20 similar information relating to utility systems development, or
21 market or crop reports, that are obtained in confidence from any
22 person.

23 (f) Records of complaints to, or investigations conducted by,
24 or records of intelligence information or security procedures of,
25 the office of the Attorney General and the Department of Justice,
26 the Office of Emergency Services and any state or local police
27 agency, or any investigatory or security files compiled by any other
28 state or local police agency, or any investigatory or security files
29 compiled by any other state or local agency for correctional, law
30 enforcement, or licensing purposes. However, state and local law
31 enforcement agencies shall disclose the names and addresses of
32 persons involved in, or witnesses other than confidential informants
33 to, the incident, the description of any property involved, the date,
34 time, and location of the incident, all diagrams, statements of the
35 parties involved in the incident, the statements of all witnesses,
36 other than confidential informants, to the victims of an incident,
37 or an authorized representative thereof, an insurance carrier against
38 which a claim has been or might be made, and any person suffering
39 bodily injury or property damage or loss, as the result of the
40 incident caused by arson, burglary, fire, explosion, larceny,

1 robbery, carjacking, vandalism, vehicle theft, or a crime as defined
2 by subdivision (b) of Section 13951, unless the disclosure would
3 endanger the safety of a witness or other person involved in the
4 investigation, or unless disclosure would endanger the successful
5 completion of the investigation or a related investigation. However,
6 nothing in this division shall require the disclosure of that portion
7 of those investigative files that reflects the analysis or conclusions
8 of the investigating officer.

9 Customer lists provided to a state or local police agency by an
10 alarm or security company at the request of the agency shall be
11 construed to be records subject to this subdivision.

12 Notwithstanding any other provision of this subdivision, state
13 and local law enforcement agencies shall make public the following
14 information, except to the extent that disclosure of a particular
15 item of information would endanger the safety of a person involved
16 in an investigation or would endanger the successful completion
17 of the investigation or a related investigation:

18 (1) The full name and occupation of every individual arrested
19 by the agency, the individual's physical description including date
20 of birth, color of eyes and hair, sex, height and weight, the time
21 and date of arrest, the time and date of booking, the location of
22 the arrest, the factual circumstances surrounding the arrest, the
23 amount of bail set, the time and manner of release or the location
24 where the individual is currently being held, and all charges the
25 individual is being held upon, including any outstanding warrants
26 from other jurisdictions and parole or probation holds.

27 (2) Subject to the restrictions imposed by Section 841.5 of the
28 Penal Code, the time, substance, and location of all complaints or
29 requests for assistance received by the agency and the time and
30 nature of the response thereto, including, to the extent the
31 information regarding crimes alleged or committed or any other
32 incident investigated is recorded, the time, date, and location of
33 occurrence, the time and date of the report, the name and age of
34 the victim, the factual circumstances surrounding the crime or
35 incident, and a general description of any injuries, property, or
36 weapons involved. The name of a victim of any crime defined by
37 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
38 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
39 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
40 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83

1 of the November 7, 2006, statewide general election), 288.5, 288.7,
2 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
3 be withheld at the victim's request, or at the request of the victim's
4 parent or guardian if the victim is a minor. When a person is the
5 victim of more than one crime, information disclosing that the
6 person is a victim of a crime defined in any of the sections of the
7 Penal Code set forth in this subdivision may be deleted at the
8 request of the victim, or the victim's parent or guardian if the
9 victim is a minor, in making the report of the crime, or of any
10 crime or incident accompanying the crime, available to the public
11 in compliance with the requirements of this paragraph.

12 (3) Subject to the restrictions of Section 841.5 of the Penal Code
13 and this subdivision, the current address of every individual
14 arrested by the agency and the current address of the victim of a
15 crime, where the requester declares under penalty of perjury that
16 the request is made for a scholarly, journalistic, political, or
17 governmental purpose, or that the request is made for investigation
18 purposes by a licensed private investigator as described in Chapter
19 11.3 (commencing with Section 7512) of Division 3 of the Business
20 and Professions Code. However, the address of the victim of any
21 crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,
22 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,
23 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by
24 Chapter 337 of the Statutes of 2006), 288.3 (as added by Section
25 6 of Proposition 83 of the November 7, 2006, statewide general
26 election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
27 of the Penal Code shall remain confidential. Address information
28 obtained pursuant to this paragraph may not be used directly or
29 indirectly, or furnished to another, to sell a product or service to
30 any individual or group of individuals, and the requester shall
31 execute a declaration to that effect under penalty of perjury.
32 Nothing in this paragraph shall be construed to prohibit or limit a
33 scholarly, journalistic, political, or government use of address
34 information obtained pursuant to this paragraph.

35 (g) Test questions, scoring keys, and other examination data
36 used to administer a licensing examination, examination for
37 employment, or academic examination, except as provided for in
38 Chapter 3 (commencing with Section 99150) of Part 65 of Division
39 14 of Title 3 of the Education Code.

1 (h) The contents of real estate appraisals or engineering or
2 feasibility estimates and evaluations made for or by the state or
3 local agency relative to the acquisition of property, or to
4 prospective public supply and construction contracts, until all of
5 the property has been acquired or all of the contract agreement
6 obtained. However, the law of eminent domain shall not be affected
7 by this provision.

8 (i) Information required from any taxpayer in connection with
9 the collection of local taxes that is received in confidence and the
10 disclosure of the information to other persons would result in unfair
11 competitive disadvantage to the person supplying the information.

12 (j) Library circulation records kept for the purpose of identifying
13 the borrower of items available in libraries, and library and museum
14 materials made or acquired and presented solely for reference or
15 exhibition purposes. The exemption in this subdivision shall not
16 apply to records of fines imposed on the borrowers.

17 (k) Records, the disclosure of which is exempted or prohibited
18 pursuant to federal or state law, including, but not limited to,
19 provisions of the Evidence Code relating to privilege.

20 (l) Correspondence of and to the Governor or employees of the
21 Governor's office or in the custody of or maintained by the
22 Governor's Legal Affairs Secretary. However, public records shall
23 not be transferred to the custody of the Governor's Legal Affairs
24 Secretary to evade the disclosure provisions of this chapter.

25 (m) In the custody of or maintained by the Legislative Counsel,
26 except those records in the public database maintained by the
27 Legislative Counsel that are described in Section 10248.

28 (n) Statements of personal worth or personal financial data
29 required by a licensing agency and filed by an applicant with the
30 licensing agency to establish his or her personal qualification for
31 the license, certificate, or permit applied for.

32 (o) Financial data contained in applications for financing under
33 Division 27 (commencing with Section 44500) of the Health and
34 Safety Code, where an authorized officer of the California Pollution
35 Control Financing Authority determines that disclosure of the
36 financial data would be competitively injurious to the applicant
37 and the data is required in order to obtain guarantees from the
38 United States Small Business Administration. The California
39 Pollution Control Financing Authority shall adopt rules for review
40 of individual requests for confidentiality under this section and for

1 making available to the public those portions of an application that
2 are subject to disclosure under this chapter.

3 (p) Records of state agencies related to activities governed by
4 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
5 (commencing with Section 3525), and Chapter 12 (commencing
6 with Section 3560) of Division 4, that reveal a state agency's
7 deliberative processes, impressions, evaluations, opinions,
8 recommendations, meeting minutes, research, work products,
9 theories, or strategy, or that provide instruction, advice, or training
10 to employees who do not have full collective bargaining and
11 representation rights under these chapters. Nothing in this
12 subdivision shall be construed to limit the disclosure duties of a
13 state agency with respect to any other records relating to the
14 activities governed by the employee relations acts referred to in
15 this subdivision.

16 (q) (1) Records of state agencies related to activities governed
17 by Article 2.6 (commencing with Section 14081), Article 2.8
18 (commencing with Section 14087.5), and Article 2.91
19 (commencing with Section 14089) of Chapter 7 of Part 3 of
20 Division 9 of the Welfare and Institutions Code, that reveal the
21 special negotiator's deliberative processes, discussions,
22 communications, or any other portion of the negotiations with
23 providers of health care services, impressions, opinions,
24 recommendations, meeting minutes, research, work product,
25 theories, or strategy, or that provide instruction, advice, or training
26 to employees.

27 (2) Except for the portion of a contract containing the rates of
28 payment, contracts for inpatient services entered into pursuant to
29 these articles, on or after April 1, 1984, shall be open to inspection
30 one year after they are fully executed. If a contract for inpatient
31 services that is entered into prior to April 1, 1984, is amended on
32 or after April 1, 1984, the amendment, except for any portion
33 containing the rates of payment, shall be open to inspection one
34 year after it is fully executed. If the California Medical Assistance
35 Commission enters into contracts with health care providers for
36 other than inpatient hospital services, those contracts shall be open
37 to inspection one year after they are fully executed.

38 (3) Three years after a contract or amendment is open to
39 inspection under this subdivision, the portion of the contract or

1 amendment containing the rates of payment shall be open to
2 inspection.

3 (4) Notwithstanding any other provision of law, the entire
4 contract or amendment shall be open to inspection by the Joint
5 Legislative Audit Committee and the Legislative Analyst's Office.
6 The committee and that office shall maintain the confidentiality
7 of the contracts and amendments until the time a contract or
8 amendment is fully open to inspection by the public.

9 (r) Records of Native American graves, cemeteries, and sacred
10 places and records of Native American places, features, and objects
11 described in Sections 5097.9 and 5097.993 of the Public Resources
12 Code maintained by, or in the possession of, the Native American
13 Heritage Commission, another state agency, or a local agency.

14 (s) A final accreditation report of the Joint Commission on
15 Accreditation of Hospitals that has been transmitted to the State
16 Department of Health Care Services pursuant to subdivision (b)
17 of Section 1282 of the Health and Safety Code.

18 (t) Records of a local hospital district, formed pursuant to
19 Division 23 (commencing with Section 32000) of the Health and
20 Safety Code, or the records of a municipal hospital, formed
21 pursuant to Article 7 (commencing with Section 37600) or Article
22 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
23 Division 3 of Title 4 of this code, that relate to any contract with
24 an insurer or nonprofit hospital service plan for inpatient or
25 outpatient services for alternative rates pursuant to Section 10133
26 of the Insurance Code. However, the record shall be open to
27 inspection within one year after the contract is fully executed.

28 (u) (1) Information contained in applications for licenses to
29 carry firearms issued pursuant to Section 26150, 26155, 26170,
30 or 26215 of the Penal Code by the sheriff of a county or the chief
31 or other head of a municipal police department that indicates when
32 or where the applicant is vulnerable to attack or that concerns the
33 applicant's medical or psychological history or that of members
34 of his or her family.

35 (2) The home address and telephone number of prosecutors,
36 public defenders, peace officers, judges, court commissioners, and
37 magistrates that are set forth in applications for licenses to carry
38 firearms issued pursuant to Section 26150, 26155, 26170, or 26215
39 of the Penal Code by the sheriff of a county or the chief or other
40 head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), and Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, and Chapter 2 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2.2 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract

1 or amendment containing the rates of payment shall be open to
2 inspection.

3 (4) Notwithstanding any other law, the entire contract or
4 amendments to a contract shall be open to inspection by the Joint
5 Legislative Audit Committee. The committee shall maintain the
6 confidentiality of the contracts and amendments thereto, until the
7 contracts or amendments to the contracts are open to inspection
8 pursuant to paragraph (3).

9 (w) (1) Records of the Managed Risk Medical Insurance Board
10 related to activities governed by Chapter 8 (commencing with
11 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
12 that reveal the deliberative processes, discussions, communications,
13 or any other portion of the negotiations with health plans, or the
14 impressions, opinions, recommendations, meeting minutes,
15 research, work product, theories, or strategy of the board or its
16 staff, or records that provide instructions, advice, or training to
17 employees.

18 (2) Except for the portion of a contract that contains the rates
19 of payment, contracts for health coverage entered into pursuant to
20 Chapter 8 (commencing with Section 10700) of Part 2 of Division
21 2 of the Insurance Code, on or after January 1, 1993, shall be open
22 to inspection one year after they have been fully executed.

23 (3) Notwithstanding any other law, the entire contract or
24 amendments to a contract shall be open to inspection by the Joint
25 Legislative Audit Committee. The committee shall maintain the
26 confidentiality of the contracts and amendments thereto, until the
27 contracts or amendments to the contracts are open to inspection
28 pursuant to paragraph (2).

29 (x) Financial data contained in applications for registration, or
30 registration renewal, as a service contractor filed with the Director
31 of Consumer Affairs pursuant to Chapter 20 (commencing with
32 Section 9800) of Division 3 of the Business and Professions Code,
33 for the purpose of establishing the service contractor's net worth,
34 or financial data regarding the funded accounts held in escrow for
35 service contracts held in force in this state by a service contractor.

36 (y) (1) Records of the Managed Risk Medical Insurance Board
37 related to activities governed by Part 6.2 (commencing with Section
38 12693) or Part 6.4 (commencing with Section 12699.50) of
39 Division 2 of the Insurance Code, and that reveal any of the
40 following:

1 (A) The deliberative processes, discussions, communications,
2 or any other portion of the negotiations with entities contracting
3 or seeking to contract with the board, entities with which the board
4 is considering a contract, or entities with which the board is
5 considering or enters into any other arrangement under which the
6 board provides, receives, or arranges services or reimbursement.

7 (B) The impressions, opinions, recommendations, meeting
8 minutes, research, work product, theories, or strategy of the board
9 or its staff, or records that provide instructions, advice, or training
10 to employees.

11 (2) (A) Except for the portion of a contract that contains the
12 rates of payment, contracts entered into pursuant to Part 6.2
13 (commencing with Section 12693) or Part 6.4 (commencing with
14 Section 12699.50) of Division 2 of the Insurance Code, on or after
15 January 1, 1998, shall be open to inspection one year after their
16 effective dates.

17 (B) If a contract entered into pursuant to Part 6.2 (commencing
18 with Section 12693) or Part 6.4 (commencing with Section
19 12699.50) of Division 2 of the Insurance Code is amended, the
20 amendment shall be open to inspection one year after the effective
21 date of the amendment.

22 (3) Three years after a contract or amendment is open to
23 inspection pursuant to this subdivision, the portion of the contract
24 or amendment containing the rates of payment shall be open to
25 inspection.

26 (4) Notwithstanding any other law, the entire contract or
27 amendments to a contract shall be open to inspection by the Joint
28 Legislative Audit Committee. The committee shall maintain the
29 confidentiality of the contracts and amendments thereto until the
30 contract or amendments to a contract are open to inspection
31 pursuant to paragraph (2) or (3).

32 (5) The exemption from disclosure provided pursuant to this
33 subdivision for the contracts, deliberative processes, discussions,
34 communications, negotiations, impressions, opinions,
35 recommendations, meeting minutes, research, work product,
36 theories, or strategy of the board or its staff shall also apply to the
37 contracts, deliberative processes, discussions, communications,
38 negotiations, impressions, opinions, recommendations, meeting
39 minutes, research, work product, theories, or strategy of applicants

1 pursuant to Part 6.4 (commencing with Section 12699.50) of
2 Division 2 of the Insurance Code.

3 (z) Records obtained pursuant to paragraph (2) of subdivision
4 (f) of Section 2891.1 of the Public Utilities Code.

5 (aa) A document prepared by or for a state or local agency that
6 assesses its vulnerability to terrorist attack or other criminal acts
7 intended to disrupt the public agency's operations and that is for
8 distribution or consideration in a closed session.

9 (ab) Critical infrastructure information, as defined in Section
10 131(3) of Title 6 of the United States Code, that is voluntarily
11 submitted to the California Emergency Management Agency for
12 use by that office, including the identity of the person who or entity
13 that voluntarily submitted the information. As used in this
14 subdivision, "voluntarily submitted" means submitted in the
15 absence of the office exercising any legal authority to compel
16 access to or submission of critical infrastructure information. This
17 subdivision shall not affect the status of information in the
18 possession of any other state or local governmental agency.

19 (ac) All information provided to the Secretary of State by a
20 person for the purpose of registration in the Advance Health Care
21 Directive Registry, except that those records shall be released at
22 the request of a health care provider, a public guardian, or the
23 registrant's legal representative.

24 (ad) The following records of the State Compensation Insurance
25 Fund:

26 (1) Records related to claims pursuant to Chapter 1
27 (commencing with Section 3200) of Division 4 of the Labor Code,
28 to the extent that confidential medical information or other
29 individually identifiable information would be disclosed.

30 (2) Records related to the discussions, communications, or any
31 other portion of the negotiations with entities contracting or seeking
32 to contract with the fund, and any related deliberations.

33 (3) Records related to the impressions, opinions,
34 recommendations, meeting minutes of meetings or sessions that
35 are lawfully closed to the public, research, work product, theories,
36 or strategy of the fund or its staff, on the development of rates,
37 contracting strategy, underwriting, or competitive strategy pursuant
38 to the powers granted to the fund in Chapter 4 (commencing with
39 Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

1 (7) (A) Except as provided in subparagraph (C), contracts
2 entered into pursuant to Chapter 4 (commencing with Section
3 11770) of Part 3 of Division 2 of the Insurance Code shall be open
4 to inspection one year after the contract has been fully executed.

5 (B) If a contract entered into pursuant to Chapter 4 (commencing
6 with Section 11770) of Part 3 of Division 2 of the Insurance Code
7 is amended, the amendment shall be open to inspection one year
8 after the amendment has been fully executed.

9 (C) Three years after a contract or amendment is open to
10 inspection pursuant to this subdivision, the portion of the contract
11 or amendment containing the rates of payment shall be open to
12 inspection.

13 (D) Notwithstanding any other law, the entire contract or
14 amendments to a contract shall be open to inspection by the Joint
15 Legislative Audit Committee. The committee shall maintain the
16 confidentiality of the contracts and amendments thereto until the
17 contract or amendments to a contract are open to inspection
18 pursuant to this paragraph.

19 (E) This paragraph is not intended to apply to documents related
20 to contracts with public entities that are not otherwise expressly
21 confidential as to that public entity.

22 (F) For purposes of this paragraph, “fully executed” means the
23 point in time when all of the necessary parties to the contract have
24 signed the contract.

25 This section shall not prevent any agency from opening its
26 records concerning the administration of the agency to public
27 inspection, unless disclosure is otherwise prohibited by law.

28 This section shall not prevent any health facility from disclosing
29 to a certified bargaining agent relevant financing information
30 pursuant to Section 8 of the National Labor Relations Act (29
31 U.S.C. Sec. 158).

32 SEC. 3. The Legislature finds and declares that Section 2 of
33 this act, which amends Section 6254 of the Government Code,
34 imposes a limitation on the public’s right of access to the meetings
35 of public bodies or the writings of public officials and agencies
36 within the meaning of Section 3 of Article I of the California
37 Constitution. Pursuant to that constitutional provision, the
38 Legislature makes the following findings to demonstrate the interest
39 protected by this limitation and the need for protecting that interest:

1 The potential disclosure of attorneys' billing records could be
2 damaging to the legal interests of public agencies because these
3 records, when disclosed during the pendency of litigation, may
4 reveal significant strategic facts to the opposing litigant.

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